

## TREASON TO RESIST PINKERTONS!

## A Review of the Charge to the Grand Jury in the Homestead Case.

To the Editor of THE ADVOCATE.

HOMESTEAD, PA., October 10, 1892.—The unusual spectacle of the chief justice of the supreme court of the state sitting as a judge in the court of oyer and terminer of a county in the state, was witnessed by a large crowd in the criminal court room this morning when Chief Justice Paxson charged the grand jury as to what constituted treason against the state in the cases implicating the members of the Homestead strikers' advisory committee.

Upon the bench sat the chief justice, Judges Stowe, McClung, Porter and Keeney, while in the place usually occupied by the clerk sat Judge Slagle. The room was crowded almost to suffocation. When the court opened Judge Kennedy turned to the grand jury and said that charges of treason having been preferred against certain persons, it seemed meet for the county court to request the highest judicial officer of the state to deliver the charge.—*New York Herald.*

He that stands upon a slippery place,  
Makes nice of no vile hold to stay him up.  
—Shakespeare.

In the declaration of Independence the American people complained:

The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states.

And so 116 years later, the wage-workers of this land may as truthfully complain that the recent history of the Guild of Greed "is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over the workpeople of this land." To prove this, "let facts be submitted to a candid world:"

Within three months, the states and the federal government together have had in the field against wage-workers, an aggregate army of nearly 30,000 men! In what capacity? Not as a posse to aid civil authorities in executing their functions, but to actually supercede the civil authorities as in time of war! In Tennessee, miners attacked the guardians of the convict slaves; and, without having made the slightest attempt to deal with the assailants by due process of law, the state instead sent troops to reinforce the stockades, as in time of war it would have reinforced its forts in anticipation of an attack by the public enemy. Yet all through Tennessee the courts were open and unobstructed—not an officer with a warrant had been resisted in attempting to make an arrest. The troops were not sent to aid in making arrests, but to give battle as in time of actual war.

In Pennsylvania, the Homestead strikers were in control of the Carnegie plant; but no writ of any character had been issued to dispossess them, no warrant had been issued against a single one of them, no resistance had been offered or threatened to any civil officer in the discharge of any official duty. The battle between the men and the invading Pinkertons had been over for days, and even yet no warrants were in the sheriff's hands when the governor mobilized at Homestead an army of 8,000 men. What to do? Not to aid the civil officers in making arrests or to execute processes for possession of the Carnegie plant, but to overawe the wage-workers by confronting them with an army in battle array as in time of war! Civil process being utterly set aside and ignored by the state, the sole object was to restore by military force the possession of the mills to the Carnegie company. The project was a writ of replevin, of forcible detainer, or of ejectment, executed by an army under military orders instead of by a civil officer under a judicial writ. Yet all the time every court in Pennsylvania was open and unobstructed; every magistrate was in the free exercise of his functions; not a process had been resisted, as to this day none has been.

In New York, some switchmen at Buffalo struck; some old cars were burned; there was some interference with the movement of trains. The courts were all open—the magistrates were acting—

no process had been resisted—no such resistance had been threatened; yet the governor massed there an army of 7,000 or 8,000 men; thousands more were under arms in reserve; and even the naval reserve was held waiting orders for the squadron to proceed to the lake and make a naval demonstration at Buffalo. When the troops arrived what did they do? Did they aid the civil authorities in making arrests or in executing process of any character? No, they were there as an army. All civil processes were utterly set aside and ignored; and that which any private citizen must have resorted to legal proceedings to accomplish, the state sent an army to perform for the railroad companies.

In Idaho, too, the state and the federal troops took the place of the laws instead of coming to their assistance. And so it has been everywhere. Troops have not in a single strike been called out to help execute legal process, but always as the armed servants of employers, to overawe the workmen by threatened battle or by actual fusillades, until it has become perfectly understood that a strike by the employes of any great, rich corporation will be frustrated by the military violence of the state, or, if the employer needs it, by the standing army of the nation. Who that knows aught of constitutional law needs to be told that in every one of these instances the use of military forces as substitutes for the civil laws and civil processes was a flagrant, treasonable usurpation? Turn again to the declaration of Independence and read the complaint of one of the king's usurpations:

He has affected to render the military independent of, and superior to, the civil power! Quartering large bodies of armed troops among us; protecting them, by a mock trial, from punishment for any murder which they should commit on the inhabitants of these states.

The national guard at Buffalo wantonly shot and killed a boy. Warrants were issued by a civil magistrate for the arrest of the murderers; and it was openly declared that national guardsmen are not answerable to the civil courts for murders committed as soldiers! Has any one yet heard that these military assassins—the members of this superior order of privileged murderers—have been made to answer for their crime? Were they even tried, convicted and sentenced to death like mere ordinary willful murderers, who doubts for a moment that they would be immediately pardoned at the instance of those who had the murder done?

Has it not been proposed to keep up a regular army in Pennsylvania for the express purpose of putting down strikers without resorting to mere "due process of law?" Has not General Snowden, of Pennsylvania declared, that discontented poverty must be pacified, not by appeasing its hunger, but by bringing armies against it? Has not the press teemed with echoes of this suggestion? And is not this now clearly demonstrated to be the policy henceforth to be pursued? Might not the wage-worker of America repeat the complaint of their forefathers when they declared of their king:

He has abdicated government here by declaring us out of his protection, and waging war against us?

But—"still there's more to follow." Aroused by the events of the past three months, the labor organizations have required their members to keep out of the national guard, and have urged all unorganized working men to do likewise, and to leave wealth to do its own murdering of the poor, taking the chances of being killed itself in the attempt. Greed has grown suspicious of the citizen "soldier," too, and fears he may hesitate to shoot when ordered. Hence, the Pinkerton's, or mercenary troops, have become the last hope of the arrogant aristocracy

of dollars and bad breeding. After the Homestead affair, one almost universal cry went up, "The Pinkerton's must go!" It was shouted from party convention halls; the press made it ring out from ocean to ocean; congress caught up the cry, and it was echoed by even the conservative senate. Nobody in the whole land dared stand up for the continued existence of this army of hireling assassins. But greed must have mercenary soldiers. It can rely upon no other kind. Hence, the popular demand that the Pinkerton's shall go, must be answered by legalizing the mercenary murderer, by surrounding his sacred person with some of that "divinity which doth hedge a king." How could this be done? To ask legislatures in these times to do it would be madness. Congress when next it meets will be more likely to do the reverse. Few sheriffs hereafter will care to be caught "sweating in" non-resident professional assassins as "deputies." The only hope for plutocracy is the loyalty of its judges. To them it has resorted; and, through the infamous instrumentality of the chief justice of Pennsylvania, has succeeded in having it judicially proclaimed as part of the law of the land that resisting Pinkertons is treason against the state! Under this decision, if it shall become a precedent, the mercenary armies of the plutocracy become the sacred representatives of the sovereign people—become the lawful soldiers of the state! And who doubts the infamous decision will be followed as a precedent elsewhere if corrupt judicial tools of wealth be not hurled from the bench by the people they seek to enslave?

But, is it true the chief justice of Pennsylvania has declared it treason in workmen to resist the Pinkertons? You shall judge for yourself, my reader. He is not so stupid as to put it in plain words; he covers it up under a mass of verbiage. But that is the only possible meaning of his decision; that is precisely the legal effect of what he declared, and that is precisely what he meant to decide.

The Homestead men were at first charged with murder, and with aggravated rioting; the charge of treason was an afterthought. The charge having been preferred, the chief justice comes to sit in the court of the county and charges the grand jury to indict the Homestead men for treason. With what object? Why seek to stretch the law of treason? Its punishment is but a fine and not more than twelve years imprisonment, while murder may be punished with death. Men may be imprisoned for rioting. Why, then, seek to make these men guilty of treason rather than of rioting or of murder? Shall we suppose the chief justice was eager to subject the accused to the "separate and solitary" imprisonment provided for in the statute as to treason, to revive that species of mind and soul murder the description of the horrors of which given by Dickens in his "American Notes" made Pennsylvania's penal laws odious to all Americans? If the chief justice was not moved by this diabolical desire, what was his motive in seeking to make treason of the charges against the Homestead men? He, himself, shall answer it. In the charge to the grand jury and as its excuse, he said this:

If we were to concede the doctrine that the employe may dictate to his employers the terms of his employment, and upon the refusal of the latter to accede to them may take possession of his property and drive others away who were willing to work, we would have an anarchy. No business could be conducted upon such a basis; that doctrine when once countenanced would be extended to every industry.

We have reached the point in the history of the state where there are but two roads for us to pursue. The one leads to order and good government; the other leads to anarchy. The one great question which concerns the people of this country is the enforcement of the law and the preservation of order.

"We have reached the point in the his-

tory of the state when" we must uphold the employment of mercenary troops by great corporations, or "the employe may dictate to his employers the terms of his employment," etc. The "citizen soldier" is becoming an uncertain reliance in such cases. Congress, as it will be constituted, cannot be relied upon to increase the regular army so that any force of consequence can be spared from the duty of protecting cattle thieves and rascally Indian agents. Of late, even policemen have been lukewarm in the sport of clubbing hungry people during a strike. There is but one course open—the plutocracy must be allowed to raise and control its own armies, and these armies must be protected by the courts! That can be done only by declaring it to be treason to resist the employer's troops, the same as if they were the state's own military forces! I hope no one is too stupid to see the chief justice's motive. He was brought there to make the predetermined proclamation to workpeople more imposing and awe-inspiring. Said one of the little judges: "Charges of treason having been made against certain persons, it seemed meet for the county court to request the highest judicial officer of the state to deliver the charge." And with this awe-inspiring introduction of "the highest judicial officer of the state," the little judge and his four associate little jurists subadded into natural insignificance—voluntarily extinguished by the dazzling effulgence of the aforesaid "highest judicial" luminary. It was a show expressly designed to paralyze the workmen of the land. But will they paralyze? We shall see.

What is treason under the laws of Pennsylvania? As there were no public enemies to whom to give "aid and comfort," treason could be committed only by levying war against the state. Here is the Pennsylvania statute, omitting only the giving aid to public enemies, which has here no application:

If any person owing allegiance to the commonwealth of Pennsylvania, shall levy war against the same, \* \* \* such person shall, on conviction, be adjudged guilty of treason against the commonwealth of Pennsylvania, and be sentenced to pay a fine not exceeding \$2,000 and undergo imprisonment, by separate and solitary confinement at labor, not exceeding twelve years.—(*Brightly's Purdon's Digest*, page 400.)

Not only must the accused "levy war," but that war must be levied against the state. Now, compare the chief justice's definition with that given in this statute.

The justice defined as treason the organization of a large number of men in a common purpose to defy the law, resist its officers, and to deprive any portion of their fellow citizens of their rights under the constitution and laws.—(*New York Herald's Report*)

Every lawyer acquainted with the subject knows that no such definition of treason as this finds justification in any precedent to be found in England or in America, not even in the infamous, odious decisions which have loaded with obloquy the memory of the corrupt tool is that pronounced them. No previous judge has ever dared to hold that "the organization of a large number of men in a common purpose," though that purpose should be to actually subvert the government, constitutes levying war against the state. "To constitute this crime," says the supreme court of the United States, construing a precisely similar statute, "war must be actually levied against the United States. However flagitious may be the crime of conspiring to subvert by force the government of our country, such conspiracy is not treason. To conspire to levy war, and to actually levy war, are distinct offenses. The first must be brought into operation by the assemblage of men for a purpose treasonable in itself, or the facts of levying war cannot have been committed. \* \* \* There must be an actual assemblage of men, for the purpose of executing a treasonable design."

In a case in Pennsylvania, with which